

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
October 14, 2003**

PLACE: Auditorium
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Forman, Kenny, Conze, Bigelow

STAFF ATTENDING: Ginsberg, Keating

Chairman Damanti read the first agenda item:

Continuation of Public Hearing Regarding Business Site Plan #90-K, Pear Partners, LLC, 1077 Boston Post Road. Proposing to renovate and to construct additions and alterations to the existing building and perform related site development activities. The subject properties are on the northwest side of Boston Post Road, approximately 550 feet northeast of its intersection with Leroy Avenue, and are shown on Tax Assessor's Map #73, as Lots #7 and #42 in the CBD Zone, with shared parking on Lots #40 and #41 in the CBD and PR Zones.

Mr. Damanti noted that this is a continuation of the public hearing on this matter from September 16, 2003. Attorney William Hennessey was present on behalf of the applicant, and said that all of the uses proposed are within the realm of possibility. He said that on Saturdays, there will be a parking shortage. They have met with the Board of Selectmen to develop a license agreement to use parking spaces within a municipal parking lot. They have worked on an agreement to use 100 parking spaces within the Leroy west and Squab Lane parking areas. Mr. Hennessey submitted a letter from the Board of Selectmen dated October 14, 2003. He also submitted a map regarding municipal parking areas and a list of capacities of each municipal parking lot. He also submitted photographs of the parking lots showing the fact that on Saturdays they are typically not occupied.

Dave Sullivan of Barkan & Mess Associates explained that as the consulting traffic engineers they have conducted a parking space demand analysis. He said that the convergence of uses and parking demands on Saturdays will result in a slight insufficiency of onsite parking at the site. The plan is to utilize a valet parking service for the customers of the Elizabeth Arden facility during Saturdays. He said that this will work out very well because Elizabeth Arden is not a general retail store where customers come at their own leisure, but rather it is a business that runs on an appointment basis. In this way, they can plan for when customers will arrive and when they will depart.

In response to questions Mr. Sullivan said that they estimate that there will be a maximum of 30 cars using the valet service at any given time. He said that the balance of the 100 parking spaces in the municipal lot would be used by employees and there would still be an excess of available spaces at the municipal parking lot. He said that they have not considered using a car stacking system on the site even though they will be using a valet service, but stacking the cars (parking them end to end) would minimize the on road traffic increases.

Mr. Bigelow arrived at the meeting at 8:09 p.m.

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Mr. Sullivan said that it will be the policy of the building owner that on Saturdays all employees of all businesses within the building must park off-site. This will allow the on-site parking spaces to be available for the customers. Mr. Sullivan said that they are increasing the number of parking spaces on the site from 184 to 186 by reconfiguring the existing spaces and adding some spaces at the rear of the building near Grove Street. He said that the parking situation works now with 184 parking spaces even though more than 700 parking spaces are required by the regulations. Mr. Sullivan said that the changes proposed to the site increase the parking demand by 10 spaces and the addition of 100 parking spaces of the municipal parking area increases the available parking spaces. He said that the on-site parking will be sufficient for every typical day of the week except Saturday and something like the day after Thanksgiving, and that is why they have obtained an agreement to use the adjacent municipal parking lot on weekends and holidays. Some Commission members noted that there needs to be a clarification from the Board of Selectmen about special days like the day after Thanksgiving that is technically not a holiday, albeit that the municipal parking lot is not likely to be heavily used that day.

Attorney Hennessey said that in the parking calculations it was assumed that there will be no shared driving and no customers will patronize more than one of the existing or proposed businesses. He said that this is a very conservative method of estimating the parking demand.

Attorney Wilder Gleason represented the owners of the Darien Sport Shop and said that they are very much in favor of redevelopment of the theatre building, but they are very concerned about the inadequacies of the parking analysis performed for the application. He said that the owners of the Darien Sport Shop are willing to commit to have all of their employees park off-site on peak parking demand days to leave as many parking spaces available for customers as possible, but he feared that there would still not be enough on site parking for customers. Attorney Gleason said that he has been told that Noelle's of Stamford, a spa/beauty salon comparable to the proposed Elizabeth Arden facility, occupies approximately 15,000 square feet of space and, during its peak operations on Thursday, Friday and Saturday, has 145 employees. It has a comparable number of clients at the site at any time. He said that the applicants' proposal is to utilize 7,500 square feet for the Elizabeth Arden spa use and they claim that they will only have 30 staff and 30 customers. This works out to be approximately 1 staff person for each 250 square feet of floor area. Attorney Gleason said that an anonymous local salon/day spa in the Goodwives Shopping Center occupies 4,500 square feet of space and, during its peak hours of operation, has 43 employees working. This is a ratio of 1 employee for each 100 square feet of floor area. Attorney Gleason said that he believed that the applicant's proposed ratio of 1 customer for each employee is probably low. He argued that based on the experience from other salons/day spas, the Commission should expect that in the proposed 7,500 square feet of Elizabeth Arden space, the Commission should assume approximately 65 employees during the peak times and as many as 90 customers at the site during the peak times on Thursday, Friday and Saturday. Mr. Gleason said he believed that the very busy times are not just on Saturday (when the peak occurs) but that Thursdays and Fridays are also very busy and are likely to create a parking shortfall. He said that the Commission should assume that 130 parking spaces are needed for the Elizabeth Arden facility during its busy times on Thursdays, Fridays and Saturdays.

Commission members noted that as part of a 1997 previous application to expand the Darien Sports Shop, the application materials indicate that during the week there were generally 100 or more parking spaces available for customers and employees. Attorney Gleason said that such information

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was correct at the time and that the volume of business at the Darien Sport Shop and the adjacent bank increased since that application was submitted and approved. He said that the Commission needs to deal with current parking conditions and also consider the fact that the PG Properties project (aka Grove Street Plaza project) on Grove Street is now underway and it will use many of the parking spaces in the adjacent municipal parking lot. Attorney Gleason argued that at its peak time of operation, the salon/day spa use would be more intense than a typical retail store that requires 1 parking space for every 100 square feet of floor area.

Attorney Gleason said that the Planning & Zoning Commission needs to review the proposal in the light of Section 905 of the Regulations, which specifically prohibits parking reductions based on sharing those parking spaces by time. He said that is precisely what the applicant is proposing and is therefore a problem. He said that every time that the Darien Sport Shop wanted to expand, they needed to apply to and obtain a variance from the Zoning Board of Appeals. He noted that this was also true when the restaurant use was proposed in the movie theatre building, they needed to obtain a variance before they could operate. He said that the applicant must first obtain a variance from the Zoning Board of Appeals of the required number of parking spaces.

Attorney Gleason said that the submitted site plan is inadequate because it does not show proper pedestrian access, unloading area, parking space designations, and parking space dimensions do not comply with the requirements of the regulations. He said that the applicant proposes an Ann Taylor Loft retail store on the first floor and other more intense uses than the present uses of the site. He said the retail uses will require deliveries by trucks and it is not appropriate to have trucks parked on the Post Road or in the access driveways making deliveries. He said that an adequate truck unloading area is necessary for the retail uses. The unloading area must also have direct internal access to each of the users. The applicant's explanation of having merchandise unloaded from the back of the building and then carted on a walk way along the side of the building until they can access the retail stores in the front is not appropriate. He said that truly functional unloading spaces must be provided for the various uses on the site.

Attorney Gleason said that the traffic backup aisles in the Grove Street area of the parking area are inadequate. The regulations require 24 foot backup area and the plans submitted to the Commission scale to be 21 or 22 feet of backup area. He said that there are also problems near the trash dumpster area and the handicapped parking spaces because those backup areas are inadequate. He said that by his count approximately 22 of the proposed parking spaces do not comply with the dimensional requirements of the regulations. He said that the Planning & Zoning Commission cannot waive these requirements.

Attorney Gleason said that other issues of concern include exterior lighting, which needs to be shown according to Section 1025.6 of the Darien Zoning Regulations but none is shown, the dumpster enclosure appears to be inadequate for the 20,000 square feet of building that will have a variety of uses and will therefore have a variety of waste being generated and will need several large dumpsters of various types, and the access to the dumpster area doubles as the unloading area.

Attorney Gleason argued that the parking analysis submitted by the applicant is flawed. He noted that on Table A the number of seats in the existing theatre is listed at 524 and that there are 6 apartments approved on the second floor and that each of these requires 2 parking spaces. He also noted that the Darien Sport Shop has a considerable area that is dedicated for storage use and 1

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parking space is required for each 500 square feet of storage area. He said that this has not been adequately accounted for. He submitted an annotated version of Table A with corrections that he believed would be necessary. He also submitted a zoning history which reviews the various approvals granted for the buildings involved in the Shared Parking Arrangement. He said that United Artists had the personal ability to terminate the Parking Agreement and that the current owner does not have the option to terminate the Parking Agreement. Attorney Gleason said that the owners of the Darien Sport Shop support the concept of revitalization of the area and reuse of the building, but the current proposal is flawed and is likely to create parking problems. He said that the proposed changes need to comply with the regulations and that the community cannot afford to create a parking problem where no such parking problem exists today. Commissioner Conze said that the owners of the Sport Shop should have worked with the applicant before this meeting to resolve these problems. Commissioner Kenny said that if the owners of the Sport Shop are supportive of the concept, they should not be presenting hurdles, but rather should be giving the Commission solutions to address these issues.

Gina Reilly, one of the owners of the Darien Sport Shop, said that they met with the applicants and the Town and the owner of the Webster Bank site (the third property owner involved in the Shared Parking Agreements) about a week ago and expressed these very concerns. She said that they have been trying to find solutions, but the applicant fails to realize that the inadequacy of the parking is not just a Saturday issue. They need solutions for weekdays as well.

Attorney Gleason said that the experience with other salons and day spas indicates that during the busy times they will have approximately 1 staff person for each 100 square feet of floor area, and they will be servicing at least 1 customer per staff person and they will have some customers waiting. He said that it is the applicant that is asking the Planning & Zoning Commission to disregard the Regulations, but he said that the Commission should not disregard the reality of the parking demands created by such use. He estimates that 125 to 150 parking spaces will be needed for employees of all of the various businesses at the theatre building site. He said that under Section 905 of the Zoning Regulations, the applicants need to prove to the satisfaction of the Commission that the onsite parking will be sufficient to accommodate all of the proposed uses. He said that although he doubts that any existing salons in town have the required number of parking spaces, the salon at the Goodwives Shopping Center has an extremely large parking area for customers to park.

Mrs. Forman said that she had assumed that the issue of employee parking was discussed with the Selectmen and that everyone is trying to solve the weekday parking issue as well.

Mr. Spain expressed concern about the size and type of trucks to be making deliveries to the site and wondered if it would be possible for the Commission to grant approval subject to conditions regarding the size of trucks being smaller than the standard large tractor trailer. Attorney Gleason said that there are no Letters of Intent from the tenants about the truck deliveries and there are not even any leases submitted to the Commission about the specific tenants. He said that the Commission needs to plan for the worst and make sure that there are adequate provisions made on the site to accommodate the expected parking demand by employees and customers as well as adequate access for trucks and off-street unloading areas. He said that it is ill advised to assume that only small trucks will be used at the site because that would be unenforceable by any proposed tenant or the community. He said that assuming only small trucks will be used at the site will lead to problems in the future.

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Mr. Kenny said that the 1997 application indicated that there were 100 extra unused parking spaces on the site during the daytime. Attorney Gleason said that the Sport Shop business has increased substantially since that time and now the parking conditions are sometimes insufficient due to the demand of customers wanting to patronize the existing businesses in the area. Mr. Kenny asked if the Commission should reevaluate the existing parking requirements and possibly increase the amount of parking spaces required for business uses.

First Selectman Robert Harrel introduced himself and explained that he is also the Chairman of the Parking Authority. He said that the Parking Authority (the Board of Selectmen) have met with the applicants and are attempting to deal with the balance between proposed reuse of the site and revitalization of the downtown and the available municipal parking areas. He referred to the September 9, 2003 letter in which the Board of Selectmen reached a license agreement to allow the applicants to use parts of the Leroy West and Squab Lane municipal parking areas on weekends and holidays. He said that the Board of Selectmen had also met with the owners of the Darien Sport Shop, Steven Zangrillo and his daughter Gina Reilly, and everyone has agreed that it is critical for customers to have safe, sufficient, and easily accessible parking spaces. They did discuss the parking needs on weekdays as well as weekends and holidays and the Parking Authority will meet again with the business property owners. Mr. Harrel said that they visited the site in the summer and noted that 20 to 40% of the parking spaces were generally available during weekdays. He said that the Board of Selectmen is actively looking at the potential of creating more municipal parking areas in places like Tokeneke Road and better utilizing municipal parking areas in places like Mechanic Street which is on the east side of the railroad tracks. He said that the Board will continue to work on this issue, including employee parking on weekdays. He said that there is plenty of parking available in the evenings and on weekends. He said that although they will continue to work on this matter, it is not likely that they will reach a conclusion or solve the problem prior to a possible continuation of the hearing on November 21st.

Attorney William Hennessey, on behalf of the applicant, said that the applicant is willing to accept any reasonable conditions that the Commission may impose on the approval about weekday parking arrangements for employees. He said that the application is time sensitive due to the tenant. He conferred with his client and cannot grant an extension of time to continue the public hearing. In response to a question from a Commission member about a possible condition limiting the number of employees that could park on site at any given time, Mr. Hennessey indicated that he would need to consult with his client before responding.

Frank Penn, a resident of Sunswyck Road, said that allocating municipal-owned parking spaces to a private landowner would be setting a serious precedent. He said that the Commission and/or Board of Selectmen would possibly be imposing conditions on the business operators of adjacent businesses (not just the businesses in the theatre building) regarding the parking of their employees. This might create a hardship for the other businesses without consulting with or obtaining permission from those other businesses.

Thomas Golden, one of the owners of the theatre building, said that he was surprised by the reaction from the owners of the Darien Sport Shop. He said that he and his partner have worked with the Board of Selectmen to resolve the problems and noted that the redevelopment of the property and revitalization of the downtown is in the Town's interest. He said that everyone recognizes the

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importance of revitalizing the downtown area for the good of businesses and the tax base. He said that the zoning requirement of one parking space for each 100 square feet of floor area is the most onerous parking requirement in the State. He said that they have worked hard to make sure that there will be sufficient parking spaces available for the employees and the customers.

Tricia Ardigo, a realtor representing Elizabeth Arden, said that the first Elizabeth Arden Salon was opened in 1910. They invest approximately \$2.5 million dollars in each space that they occupy. She said that Elizabeth Arden is a treatment oriented facility where a customer is expected to spend 1 to 1½ hours. She said that the employee ratio is different from, and much less than the employee ratio at Noelle in Stamford.

Attorney Hennessey said that the project is a good proposal for the Town of Darien and that the applicant has deliberately avoided demolishing the building and has made extreme efforts to preserve the theatre use of the site. He said that they have tried to discuss and work out the issues with the owners of the Sport Shop and that this is not a time shared parking arrangement but is a synergy of uses parking arrangement with free use of all parking spaces all day by all of the customers of the businesses of the properties involved in the shared parking agreement. He said that the proposed uses do not have an extraordinary high parking demand and that the use of trucks to deliver products to the site will be as per the representations made in the application. He said that when parking is in high demand it shows that the businesses are busy and, in this case, they have made arrangements to accommodate extra parking demand by employees and customers.

Tom Golden said that the Planning & Zoning Commission is familiar with the properties that he owns of Heights Road where a shared parking agreement was worked out to allow the Equinox Fitness facility to operate. The parking arrangement gives the Planning & Zoning Commission the ability to review and approve any specific tenant in the buildings. When Equinox first opened, there was a parking problem due to their scheduling and management of the activity times. They have since resolved those problems and changed the schedule of activities so that there is no longer a parking problem.

Linda Santarella said that she has lived in Darien all her life, and that the Planning & Zoning Commission had expressed concern about the adequacy of parking at the site where Dolcetti's Restaurant was proposed. The parking area was modified in accordance with the approval and now it is a user-friendly parking lot that is frequently used by many persons not going to Dolcetti's Restaurant. She said that the Planning & Zoning Commission should not close the public hearing. She said that the hearing should be continued so that the solution to the perceived problem can be worked out.

Commission member Kenny asked if there was a sense of the distance that people will walk to a business in this area. Tom Golden said that everyone wants to park at the front of the business but that people will walk for what they want and that it depends on the type of service and the frequency that they use the service. He said that at the Stop & Shop on Heights Road, which is on property leased by Mr. Golden, there are 370 parking spaces--that works out to be about 1 parking space for every 200 square feet of floor area. There is seldom a parking problem at that location.

The Commission members discussed whether to continue the public hearing or not. They reviewed the schedule and noted that without an extension from the applicant they could not continue the

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hearing. No extension was offered. Following a brief discussion, the following motion was made: that the public hearing regarding this matter be closed. The motion was made by Mr. Conze, seconded by Mr. Kenny and unanimously approved.

There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning & Zoning

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